IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6675 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DS PATEL & 12 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

MR RR VAKIL for Petitioner(s) : 1,None for Petitioner(s) : None for Petitioner No(s).: for Petitioner(s) : 2 - 13.
NOTICE SERVED for Respondent(s) : 1, 1.2.1, 3,
MS ARCHNA RAVAL, ASST. GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 02/11/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioners have prayed for an appropriate writ, direction and/or order

directing the respondent Government to upgrade the post of Assistant Lecturer (Tutor) and Assistant Lecturer (Demonstrator) to the post of Lecturer w.e.f. the date on which the post of Assistant Lecturers of Arts, Science and Commerce faculties have been upgraded i.e. 1.4.1977 and/or w.e.f. the date on which the posts of Assistant Lecturer (Tutor) and Assistant Lecturer (Demonstrator) of Engineering and Polytechnic colleges were upgraded i.e. w.e.f. 1.4.1979.

2.This petition was ordered to be heard along with Special Civil Application No.4611 of 1988 as the same was treated as identical matter involving the same disputes. The said Special Civil Application No.4611 of 1988 came to be disposed of by the learned Single Judge of this Court (Coram : S.K.Keshote, J., as he then was) by its decision dated 5.9.2000 and the same came to be dismissed in the terms that the memo of the petition be treated as the representation of the petitioner and the respondent No.1 shall decide the same within a period of two months from the date of receipt thereof. It was further ordered that if the claim of the petitioner is accepted then they shall be entitled for all the consequential benefits follows therefrom and where their claim is not acceptable a reasoned order be passed and copy of the same be sent to the petitioners by R.P.A.D.

3.An affidavit in reply is filed on behalf of the respondents by Deputy Director, Directorate of Technical Education, Gandhinagar, and in the said reply it is submitted that even prior to the directions issued by this Court issued in Special Civil Application No.4611 of 1988 by order dated 2.7.1997, the case of the petitioner of Special Civil Application No.4611 of 1997 was considered and the post of Assistant Lecturer in that case, was upgraded to the post of Lecturer mainly considering two main criteria.

(i) On the acquisition of the qualification required for the post of Lecturer and;

(ii) On reaching the basis pay of Rs.700/- (revised Rs.2180/-).

It is further submitted in the reply that on fulfilling the aforesaid two conditions and the acquisition of the qualification for the Lecturer and on reaching the basic pay of Rs.700/- (revised Rs.2180/-), the employees become entitled to the upgraded post of Lecturer. It appears from the reply that by order dated 2.7.1997, the posts were upgraded w.e.f. 19.11.1982 and the respective dates mentioned in the said order on fulfilling the aforesaid criteria.

4.Shri R.R.Vakil, learned advocate appearing on

behalf of the petitioners has submitted that if the aforesaid two conditions are fulfilled, from that date the posts were required to be upgraded and therefore, it is requested to pass an appropriate order accordingly.

5. Considering the affidavit-in-reply as well as the decision dated 2.7.1997 in case of the petitioner of Special Civil Application No.4611 of 1988 and the criteria mentioned in the affidavit-in-reply, the respondents are required to undergo the exercise considering the case of the respective petitioners in light of what is stated in the affidavit-in-reply. Under the circumstances, let the petitioners make a detail representation to the respondents within a period of four weeks from today with full particulars and on receiving the same, the respondents are directed to decide the said representations considering the affidavit-in-reply as well as the criteria mentioned in the said affidavit-in-reply and in accordance with law and on merits and to give equal treatment to the petitioners as is given to the petitioner of Special Civil Application No.4611 of 1988 as well as other employees in whose favour the order dated 2.7.1997 has been passed, if petitioners are similarly situated and the said exercise be completed within a period of two months thereafter. If ultimately, it is found that the representations submitted by the petitioners are acceptable then

they shall be entitled for all the consequential benefits and the respondents to communicate the said order to the petitioners by way of Regd. Post A.D and if ultimately, it is found that the representations of the petitioners are not acceptable, in that case, the respondents to pass a speaking order in accordance with law and to communicate the outcome of the same to the petitioners accordingly.

6.With these, the present Special Civil Application is disposed of. No order as to costs.

[M.R.SHAH, J.]

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